

REMARKS

Claims 1-8, 10, 14-29, and 32-35 were previously pending. Applicant adds claims 36-37 as noted in the above amendment. Accordingly, claims 1-8, 10, 14-29, and 32-37 are now pending and under consideration.

Claims 36 and 37 recite that the protrusions may comprise the bio-active substance. Support for the addition of claims 36-37 can be found in paragraph [0034]. Applicant believes that the addition of these claims does not present new matter to the subject application.

Rejections under 35 U.S.C. §102(e)

Claims 1-8, 10, 14-18, 20-29, 32-33, and 35 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Ryan et al. (U.S. Publication No.2003/0191495 A1).

Applicant respectfully disagrees. Ryan does not teach or suggest that an implant having anchor members that include a plurality of protrusions located on a surface, where the protrusions assist in retaining the anchor members on deployment.

In paragraph [0042], Ryan discloses “. . . anchor members having stiff centers and flexible edges, and blood contacting surfaces having controlled porosity or surface texture to promote fast and thorough endothelialization, while minimizing thrombosis. In addition, the tissue contacting surface of the anchors can be designed to provide added stability by, e.g., being roughened.”

Clearly, Ryan is teaching roughening a surface texture to avoid creation of thrombosis. In contrast, providing protrusions as applicant recites in claims 1 and 28 (and shows in Fig. 2H), would create a risk of thrombosis which Ryan cautions against. Moreover, a protrusion is something that protrudes from the surface regardless where the surface is smooth or rough. Again, Ryan simply does not teach a device having protrusions from the surface (where the surface may be smooth or roughened).

In any event, applicant is unable to find any teaching or suggestion in Ryan that any roughened surface comprise the bio-active substance. Clearly, by creating protrusions of bio-active substances allows the ability to control rates or release or dosage via the size of the protrusion. This simply cannot be performed via roughening the surface as taught by Ryan.

Accordingly, apart from the failure to anticipate claims 1 and 28, Ryan fails to anticipate newly added claims 36 and 37.

As noted above, applicant believes that Ryan fails to teach or suggest the requirements of claims 1 and 28 and any claim ultimately dependent therefrom. Apart from this, applicant notes that Ryan also fails to teach or suggest the elements of claims 36 and 37. As a result, applicant believes this rejection should be withdrawn.

Rejections under 35 U.S.C. §103(a)

Claims 19 and 34 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Ryan et al. (2003/0191495 A1) in view of Ory et al. (U.S. Patent No. 6,692,506) or Thill et al. (U.S. Publication No. 2003/0028213 A1).

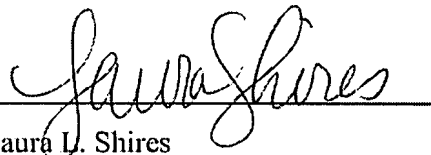
Applicant disagrees that the Office Action presents a proper prima facie case of obviousness. As noted above, since Ryan fails to teach or suggest the requirements of claims from which 19 or 34 ultimately depend. The addition of either Ory or Thill does nothing to remedy this deficiency. As a result, applicant contends all pending claims are allowable and respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No. LAUFNZ00200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

A handwritten signature in cursive script, reading "Laura L. Shires", is written over a horizontal line.

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